IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUIT NO.3066 OF 1996

Smt. Rekha S. Bhintade & Anr. ...Plaintiffs.
Vs.
Shri Atam Prakash S. Wadhwa. ...Defendant.

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Mr. C.G. Gavnekar with Mr. G. S.Hiranandani i/b. B.R. Vishwakarma for the Plaintiffs.
Mr.C. D. Patel i/b. Ranjit & Co. for the Defendant.

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CORAM :DR.D.Y.CHANDRACHUD, J.
July 12, 2007.

P.C.:

The name of Ranjit & Co. has been wrongly shown on Board as an appearance for the Defendant. The Defendant has not entered appearance despite service.

2. The suit has been instituted for the recovery of a sum of Rs. 29,68,080/- together with future interest.

3. The First Plaintiff is a proprietor of a concern by the name

of Wood Craft Industries which is engaged in the manufacture and sale of packing material, boxes and other ancillary items. The Second Plaintiff manages the business of the First Plaintiff. The Defendant was conducting business through a firm by the name of Ramesh Silk Mills. The Defendant, it is averred, approached the Plaintiffs to continue the business of the Silk Mills on the same premises where Ramesh Silk Mills was situated and sought employment on a monthly salary. The Defendant and his daughter were employed by the Plaintiffs on a salary of Rs.2,500/- per month. The claim against the Defendant arose on account of alleged acts of deceit by the Defendant in the performance of the duties as an employee of the Plaintiffs. The Defendant is alleged to have siphoned off a huge amount from the Plaintiffs' account. Eventually the disputes between the parties are alleged to have been mediated upon and a settlement was arrived at under which the Defendant agreed to pay an amount of Rs. 18.80 lakhs to the Plaintiffs within a period of six months together with interest at the rate of 18% per annum. This settlement was confirmed in an undertaking filed by the Defendant duly signed by him

on 6th December 1990. Despite the settlement, the amount was not paid, which led to the institution of the suit.

4. The Defendant has remained absent inspite of the service of the Writ of Summons. The Plaintiffs have in lieu of an Examination-in-chief of their witness, relied upon an affidavit of the Second Plaintiff. A compilation of the original documents containing the undertaking of the Defendant to pay an amount of Rs. 18.80 lakhs with interest at the rate of 18% per annum has also been tendered and taken on the record.

5. The Defendant has accepted his liability to pay to the Plaintiffs an amount of Rs. 18.80 lakhs together with interest, by a written undertaking executed on 5th December 1990. In the circumstances, the Plaintiffs will be entitled to a decree on the basis of the evidence on the record. The suit shall accordingly stand decreed in terms of prayer clauses (a) and (b) with the modification that the Plaintiffs will be entitled to interest at the rate of 9% per annum on the

principal sum from the date of the institution of the suit until payment or realisation.

6. Refund of the Court fees, if any, as per rules.

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